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1 SUPERIOR COURT OF NEW JERSEY

2 LAW DIVISION CAMDEN COUNTY

3 DOCKET NO. L-068714-83

4 -----
5 MARIE J. REACH, Individually and
6 as Administratrix Ad Prosequendum
7 and Executrix of the Estate of
8 WALTER R. REACH,

9 Plaintiff,

10 v. Deposition of:

11 THE AMERICAN TOBACCO CO.; LAWRENCE J. COSTING
12 THE AMERICAN TOBACCO CO.,
13 A Division of AMERICAN BRANDS,
14 INC.; AMERICAN BRANDS, INC.;
15 PHILLIP MORRIS, U.S.A.;
16 LIGGETT GROUP, INC.; BROWN
17 AND WILLIAMSON TOBACCO
18 CORPORATION; and JOHN DCE (1-10),

19 Defendants.

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689416693

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405 Northfield Avenue
West Orange, N. J. 07052
201-721-9666

1 TRANSCRIPT of testimony as taken by
2 and before SEAN M. FALLON, a Certified Shorthand
3 Reporter and Notary Public of the State of New
4 Jersey, at the offices of Budd, Larner, Kent,
5 Gross, Picillo and Rosenbaum, P.C., Sentry Office
6 Plaza, 216 Haddon Avenue, Suite 501, Westmont, on
7 Friday, February 14, 1986, commencing at 9:50
8 o'clock in the forenoon.

HODD, LAKER, KENT, GROSS, PIGGLE

MESSINGHAUS, H. C.

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is Attorneys for the Plaintiff

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1 I_N_D_E_X

2 WITNESS PAGE

3 LAWRENCE J. COSTINO

4 by Mr. Blake

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Lawrence J. Costino

7

EXAMINATION

BY MR. ELAINE:

Q. Mr. Costino, my name is Dennis Blake.
A. Haven't ever met before.

8 a. Right.

9 Q. I represent in this matter the
10 Phillip Morris Company in a suit brought by Marie
11 Costino Reach against Phillip Morris and various
12 other cigarette companies.

13 I'm going to be asking you various
14 questions this morning. I'll be as brief as I can
15 about Walter Reach, what you knew of Walter, what
16 you knew of his background, his family background,
17 various things such as that.

18 Just three or four prefatory remarks.
19 The most important thing I want to tell you is
20 that if you don't understand a question that I ask
21 you, please let me know. I've been known to ask
22 incomprehensible questions. As a matter of fact,
23 Mr. Weiner might say that I always ask
24 incomprehensible questions, but if you don't
25 understand it, let me know.

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Lawrence J. Costino

1 A. Right.

2 Q. I'll be happy to rephrase it.

3 A. Okay.

4 Q. If, in fact, you answer it, the
5 record is going to reflect that you did understand
6 it.

7 A. Right.

8 Q. You are under oath. This is an
9 informal setting. Under certain circumstances
10 what you say here today could be considered as
11 though it was given in front of a judge and jury.
12 You have to give a verbal response to all the
13 questions. The court reporter can't pick up a nod
14 or the head.

15 Have you been deposed before?

16 A. Have I been --

17 Q. Has your deposition ever been taken
18 before in any other matter?

19 A. No, other than talking to you in that -- I
20 don't know whether you call that a deposition. I
21 don't think so. That was just a --

22 Q. But, in any other matter at any time
23 in your life, in any other litigation in front of
24 a court reporter?

25 A. No.

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9
Lawrence J. Costino

1 Q. For the record, could you give us
2 your name and address, please?

3 A. Lawrence J. Costino. [DELETED]

5 Q. When were you born, Mr. Costino?

6 A. [DELETED]

7 Q. [DELETED]

8 A. Right.

9 Q. What is your educational background,
10 briefly?

11 A. Well, I went through grammar school, had
12 three years of high school, and four years of
13 night school at Drexel.

14 Q. Are you employed now?

15 A. No. I'm retired.

16 Q. Can you briefly give us your
17 employment background?

18 A. Well, in the retail business with Gimbel's,
19 Sears Roebuck, Corvette, and with the local union,
20 retail clerks union.

21 Q. How long have you been retired?

22 A. Six years.

23 Q. How long have you lived on
24 [DELETED]

25 A. Twenty.

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Lawrence J. Costino

2 Q. Where did you live before that?

3 A. [DELETED]

4 Q. For any length of time?

5 A. Parson?

6 Q. For any --

7 A. About four years.

8 Q. Did you live in Camden at any time?

9 A. Yes. It was on Walnut Street.

10 Q. When was that? Was that before the

11 A. War?

12 A. When I was born.

13 Q. That was before the war, of course.

14 A. Yes.

15 Q. Okay.

16 A. Then on Kenwood Avenue in Camden.

17 Q. And what was your mother's name?

18 A. Josephine.

19 Q. And your mother died some time ago,

20 A. did she not?

21 Q. My mother died when I was two and a half

22 A. years old.

23 Q. And your father, then, remarried?

24 A. My father remarried, right.

25 Q. Did you have any other brothers or

sisters by your natural mother?

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Lawrence J. Costino

1 A. Yes, two sisters.

2 Q. And what were their names?

3 A. Theresa Grunwald and Bernice Foster. That's
4 their married name, naturally.

5 Q. Is Tess still alive?

6 A. Yes, she is.

7 Q. Tess is Theresa, isn't it?

8 A. Tess is Theresa.

9 Q. And Theresa is still alive?

10 A. Yes, she is.

11 Q. Where does she live?

12 A. Indiana right now.

13 Q. How about Bernice?

14 A. Bernice has been deceased, yes.

15 Q. For what length of time? How long
16 ago did she die?

17 A. Approximately twenty years.

18 Q. When did you move out of the family
19 home on Kenwood Avenue?

20 A. When?

21 Q. Yes.

22 A. Let's see.

23 Q. Would that have been before the war?

24 A. Yes.

25 Q. Much before the war?

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Lawrence J. Costino

1 A. It was -- oh, let's see. It was probably
2 around 1940, I'd say. In that area.

3 Q. And who is your oldest half brother?

4 A. The oldest half brother, John.

5 Q. John and then Edward?

6 A. Edward -- or Joseph.

7 Q. Joseph, okay.

8 A. Yes.

9 Q. Who was the next in line?

10 A. Edward, Joseph, Vincent and John.

11 Q. And then Marie, where did she fall in
12 in the chronological order?

13 A. I think Marie comes in after John.

14 Q. How old was Marie -- how old
15 approximately was Marie when you left the house on
16 Kenwood Avenue?

17 A. How old was Marie?

18 Q. Yes. Was she a teenager at that time?

19 A. Oh, yes. She was young.

20 Q. Do you smoke, Mr. Costino, at the
21 present time? Are you a smoker?

22 A. No.

23 Q. Were you ever?

24 A. Yes.

25 Q. During what period of your life did

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Lawrence J. Costino

1 YOU SMOKED?

2 A. I would say -- when you ask me -- when did I
3 stop smoking?

4 Q. Yes. If you can recall that.

5 A. Yes. I'd say approximately -- let's see,
6 Strawbridge Avenue is about twenty, twenty-two.
7 About twenty-five years now.

8 Q. And how long had you smoked before
9 that time, if you recall, approximately?

10 A. How long? Let's see. I'd say I probably
11 smoked about -- let's see. When I left there --
12 maybe ten years, fifteen years. You know, I can't
13 pinpoint it. You know, it's been --

14 Q. Sure. How many cigarettes were you
15 smoking at the time that you quit, on a regular
16 basis? You know, were you a pack a day man?
17 Anything of that nature?

18 A. I would say approximately under a pack.

19 Q. And how did you quit?

20 A. How?

21 Q. I know that sounds like a dumb
22 question?

23 A. Yes.

24 Q. Did you give them up on an occasion
25 and just never got back to them?

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Lawrence J. Costino

1 A. I'll tell you actually how I quit. At the
2 time I was living over the top of Frankie Conway's,
3 I don't know whether you remember him or not.

4 Q. Certainly do.

5 A. And --

6 Q. It was the Hi Hat Club, wasn't it?

7 A. No. He was a blind fighter.

8 Q. On Cuthbert Road?

9 A. That's right, yes.

10 Q. 11:00 o'clock club?

11 A. Yes. Actually, I was smoking like, I would
12 say, maybe a pack or so. The way I quit was
13 because I started to wake up at night and have a
14 cigarette or something like that. I decided at
15 the time that if this is going to keep me awake,
16 I'm going to stop smoking them.

17 Q. Did you have any difficulty stopping?

18 A. Yes. It wasn't easy to stop, but I stopped,
19 you know, and I did have a desire to smoke, but I
20 just didn't. You know, I'd --

21 Q. But, you were able to -- not you were
22 able to, but, in fact, did you stop on one day and
23 just never went back to it? As we call it, I
24 think, cold turkey?

25 A. Exactly.

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Lawrence J. Costino

1 Q. Are you married, Mr. Costino?

2 A. I was.

3 Q. And are you divorced now or are you a
4 widower?

5 A. Divorced.

6 Q. Did you have any children?

7 A. One boy.

8 Q. What was the first -- your first
9 recollection of meeting Walter Reach?

10 A. My first recollection of meeting Walter was
11 at the home on Kenwood Avenue.

12 Q. Do you recall --

13 A. Marie, you know -- I think at the time they
14 were going together, but that's when I first met
15 him, yes.

16 Q. Was that during the war or after the
17 war or before --

18 A. God, that was before the war.

19 Q. And you weren't living at Kenwood
20 Avenue at that time, right?

21 A. No.

22 Q. And during, let's say, the war years,
23 anyway, did you see him on any frequent basis? In
24 the early '40's.

25 A. Well, you mean during the war?

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Lawrence J. Costino

1 Q. I'm just trying to make a convenient
2 time frame for you.

3 A. Yes. No, I went in the service around '42.
4 Came out around '45.

5 Q. I should have asked you that, first.
6 I didn't realize you were in the service.

7 A. Yes.

8 Q. Thus, you didn't see much of Mr.
9 Reach from the time that you went in the service?

10 A. Not then, I didn't, naturally.

11 Q. Until after the -- you didn't see him
12 until after the end of the war, I assume?

13 A. Yes.

14 Q. What is your first recollection, if
15 you have a first recollection, of seeing Mr. Reach
16 after the war?

17 A. What do you mean, what was the recollection?

18 Q. Do you recall the occasion when you
19 first saw him?

20 A. The occasion was probably at the same place
21 that I met him. You know, on Kenwood Avenue. And
22 after that it probably -- weddings, funerals or
23 family functions. Things like that.

24 Q. When you got back from the war had
25 Marie married Walter by that time? **689416708**

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Lawrence J. Costino

1 A. I think she had married him by then. I'm
2 not sure. Yes.

3 Q. Do you recall where they were living
4 at that point?

5 A. The place that I remember them living -- I
6 don't know whether it was -- I can't give you the
7 dates or something, but it was in Audubon.

8 Q. In Audubon, okay.

9 A. Yes. Washington Terrace or -- you know,
10 they lived there in a couple homes. I think one
11 of them was a street away and then they moved to
12 the one that Marie is presently living in.

13 Q. Do you recall any time Marie and
14 Walter living on River Road in Camden?

15 A. Oh, yes.

16 Q. Was that their first marital
17 residence?

18 A. I think it was, yes.

19 Q. Did Walter --

20 A. Now that you mention it, I do remember about
21 River Road, yes. I don't know how long they lived
22 there.

23 Q. But, do you recall a time ever when
24 Walter and Marie lived at Kenwood Avenue together,
25 after they got married?

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Lawrence J. Costino

1 A. No, I don't think they ever did live there
2 together. I think -- yes, no.

3 Q. From River Road, that's the place --

4 A. That's right. I remember they had a
5 gathering there or something, and I was there,
6 right.

7 Q. Then they moved to Audubon?

8 A. As far as I know, they went to Audubon from
9 there.

10 Q. How often would you see Walter when
11 he lived on River Road?

12 A. Not too often.

13 Q. Just on family occasions?

14 A. Yes. The same, right.

15 Q. Holidays?

16 A. Yes. I didn't visit them frequently or
17 anything like that.

18 Q. How about when they moved to Audubon?

19 A. I saw him more then.

20 Q. Okay.

21 A. In fact, I stopped there occasionally from
22 Corvettes, because that was right close by, you
23 know. Once in awhile.

24 Q. The Corvettes in Audubon?

25 A. Audubon, right.

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Lawrence J. Costino

1 Q. The Black Horse Pike?

2 A. Right.

3 Q. It was almost in the backyard?

4 A. Yes. Audubon Shopping Center it was, yes.

5 Q. You couldn't walk to it, but you had
6 to drive around the lake?

7 A. On the way home, right.

8 Q. Did you ever see Walter in the work
9 place? Did you ever go and visit him at the
10 factory?

11 A. Yes, I was in there.

12 Q. Now, do you recall --

13 A. You have reference to Cortland City?

14 Q. That was the first one I was going to
15 ask you about.

16 A. Oh.

17 Q. Do you recall the first location of
18 Cortland?

19 A. The first location that I was in was on
20 Haddon Avenue.

21 Q. That's the first one that I've heard
22 reference to.

23 A. Yes.

24 Q. Did he have an office there?

25 A. Yes.

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Lawrence J. Costino

1 Q. And how about -- what was the next
2 location? Do you remember the factory at
3 Jefferson Street?

4 A. Yes. There was another location somewhere
5 in -- I don't know. I've never been in the other
6 one. The only one that I was in was on Haddon
7 Avenue.

8 Q. Was that on one or two floors, the
9 factory, itself?

10 A. I think it was two floors.

11 Q. Did you ever walk through the factory
12 or was it just --

13 A. Yes.

14 Q. Did any of the Costino family work at
15 the factory at that point?

16 A. Yes. I think a couple of the boys worked
17 there, but I don't know for sure.

18 Q. My recollection is that Vincent
19 worked there.

20 A. Vince, I think, worked there.

21 Q. And Janet, Vincent's wife?

22 A. Well, yes. I don't know exactly who worked
23 there. But, I know Winnie worked there, but I'm
24 trying to recall whether or not Eddie worked there.

25 I'm not sure. But, I was just there -- he said,

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Lawrence J. Costino

1 WAN don't you stop by or something and see -- YOU
2 know, so I just did. You know.

3 Q. Do you know if, back in those days on
4 Haddon Avenue, if smoking was permitted in the
5 factory by the workers?

6 Q. Smoking permitted? Smoking by the
7 workers permitted?

8 A. I know what you are saying. I really don't
9 know whether that was permitted or not.

10 Q. How about Walter? Would he smoke
11 back in those days while he was in the factory?

12 A. You mean, was he smoking in the factory
13 there at the time?

14 Q. As opposed to the office.

15 A. I really don't know, because in the office I
16 would say that he smoked, you know, but as far as
17 in through the factory, I didn't see him smoking
18 in there.

19 Q. I already asked you about the
20 frequency of your visiting with Walter on River
21 Road and you said that you think it increased a
22 little bit when he moved to Audubon. I think you
23 talked about stopping at the house on the way back
24 from Corvettes?

25 A. Yes, right.

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Lawrence J. Costino

1 Q. Were there any other times that you
2 would see him when he lived in Audubon other than
3 the visits from Corvettes and on family occasions,
4 holidays?

5 A. Oh, I played golf with him a couple of times,
6 yes. He loved to play golf, yes.

7 Q. When did he start playing golf, do
8 you recall?

9 A. Oh, man. No, I don't know when he started.
10 I know that he played and I played with him a few
11 times.

12 In fact, I recall one time that my
13 brother Eddie was along with us, even.

14 Q. Was that -- can you put it, though,
15 in the '50's or the '60's? Did he play in the
16 '50's?

17 A. Yes, I would say so, yes.

18 Q. Did you get to know anything about
19 Walter's personal background? That is, his
20 background before he came to the Camden area?

21 A. No. No, I didn't know anything about his
22 background.

23 Q. You never knew where he was born or
24 raised or anything?

25 A. Never did, no.

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Lawrence J. Costino

1 Q. Did you know anything about what he
2 did when -- what his work was before he moved to
3 Camden?

4 A. As I recall -- oh, before he moved to Camden?
5 Oh, no, no.

6 Q. Did you ever hear about him being a
7 sign painter?

8 A. Yes. But I don't think that was before --
9 well, it could have been. That's what I remember
10 him as, a sign painter.

11 Q. You are right, he was a sign painter
12 in Camden, also, right?

13 A. Yes, right. I think that was on Haddon
14 Avenue, even.

15 Q. I think you are right. Did you ever
16 hear any stories from Walter or anybody else,
17 though, about his employment as a sign painter or
18 what he did prior to coming to Camden?

19 A. No.

20 Q. How long was he a sign painter in
21 Camden before he started Cortland?

22 A. I don't know, really.

23 Q. Do you recall when he started the
24 Cortland Toy Company?

25 A. No, I don't recall the date that he started

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Lawrence J. Costine

1 it. I remember the Cortland Toy on Hudson Avenue.

2 Q. Do you remember when the business
3 was -- the manufacture of flags and banners, do
4 you recall that at all?

5 A. I heard that he had -- I think -- was that
6 after Cortland Toys? I don't know, really, but I
7 remember the flag and banner bit, yes.

8 Q. Do you know if that was at the same
9 location as Cortland?

10 A. No, I don't know.

11 Q. When Marie started to work for Walter --
12 and you knew that Marie worked for Walter at one
13 point?

14 A. Yes, I did.

15 Q. Was that at Cortland Toy or was it
16 for the flag and banner?

17 A. I think it was Cortland.

18 Q. What did she do for Walter when she
19 first got there, if you know?

20 A. I think Marie did general office work.

21 Q. So, she wasn't in the factory working?

22 A. No.

23 Q. And there came a time when they
24 started to date, I assume?

25 A. Apparently, yes, that's what happened.

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Lawrence J. Costino

1 Q. Let's me ask you this: Was there
2 ever any friction in the Costino family with the
3 relationship that Walter and Marie had prior to
4 Marie getting divorced?

5 A. Has there any what?

6 Q. Was there any friction? Has your
7 mother or father upset about --

8 A. Not to my knowledge, no. They seemed to
9 like Walt.

10 Q. So, you don't recall any discussions
11 about that relationship?

12 A. No, no family discussions.

13 Q. Now, Cortland Toy, was that, to your
14 observation, a successful business?

15 A. I would say so.

16 Q. That business had started by the time
17 that you got back from the war, I assume?

18 A. Right.

19 Q. And the second location of Cortland --
20 I know you weren't there, but do you know or did
21 you hear that that was a bigger operation than it
22 had been on Haddon Avenue?

23 A. That's right. I heard that it was a bigger
24 operation.

25 Q. All right.

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Lawrence J. Costino

1 A. Yes. I heard that, in fact, it was extended
2 over to foreign countries, even, you know. Yes,
3 it was apparently a bigger operation. But, again,
4 I had never been in that one.

5 Q. Do you know whatever happened to
6 Cortland Toy Company?

7 A. Do I know what happened to it?

8 Q. Did you ever hear about the
9 bankruptcy?

10 A. No, I didn't.

11 Q. You never heard Walter discuss that?

12 A. I knew that it happened, but I didn't know
13 the circumstances at all.

14 Q. Did you -- I assume that the
15 bankruptcy was in the early '50's, sometime from
16 '50 to '53, somewhere around that area.

17 How often would you see Walter back
18 in those days? This, again, is back when he lived
19 on River Road.

20 MR. WEINER: Are you asking the
21 witness how often he saw Walter back in the early
22 '50's or how often he saw Walter when Cortland Toy
23 closed down? Because you've made an assumption
24 and the witness hasn't necessarily stated whether
25 he agrees with the assumption.

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Lawrence J. Costino

1 BY MR. BLAKE:

2 Q. I'm trying to put in a time frame.

3 How often would you see Walter around the time of
4 the bankruptcy?

5 A. How often would I see him?

6 Q. Yes.

7 A. Oh, man. Just occasionally. You know, I
8 wouldn't say how often, because it wasn't too
9 often.

10 Q. Did you ever hear Walter discuss the
11 bankruptcy?

12 A. No.

13 Q. He never discussed it with you, of
14 course?

15 A. Never, no.

16 Q. You never overheard any discussion he
17 had with anybody else about the bankruptcy?

18 A. None.

19 Q. Do you know -- well, do you know from
20 your observation what effect the bankruptcy had on
21 Walter? If it had a mental or emotional or
22 physical effect on him?

23 A. No, not to my knowledge, there was no
24 physical effect.

25 Q. Was Walter a smoker when you first

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Lawrence S. Costine

1 met him?

2 A. Yes.

3 Q. Do you know how much he would smoke
4 on a regular basis when you first met him, let's
5 say, in the '40's?

6 Q. What do you mean, on a regular basis? You
7 mean, pin it down to how many or something like
8 that or --

9 Q. I know you didn't follow him around
10 all day and watch him smoke.

11 A. Right.

12 MR. WEINER: In fact, just so the
13 record is clear, he established that he visited
14 him occasionally, and you've heard that testimony.
15 Aren't you really asking him what he observed
16 Walter smoking when he visited him?

17 MR. BLAKE: That's just what my next
18 question was going to be.

19 BY MR. BLAKE:

20 Q. From the times that you were in his
21 company, from your observations at those times,
22 could you approximate how much he would smoke on a
23 regular basis? In other words, you were a smoker
24 back then, also, I assume, were you not?

25 A. Yes.

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Lawrence J. Costino

1 Q. Did you get a feel for whether or not
2 he was a pack a day smoker or a two pack a day
3 smoker?

4 MR. WEINER: You are requiring that
5 the witness put Walter Reach in one of those
6 cubbyholes?

7 MR. BLAKE: No.

8 MR. WEINER: Could he use adjectives
9 or whatever language he --

10 BY MR. BLAKE:

11 Q. Whatever you feel comfortable with,
12 Mr. Costino. I just threw out those two questions.

13 A. What were you asking me? About what?

14 Q. About how much he smoked pack in
15 the -- after the war, in the late '40's.

16 A. Yes, I would say -- see, the only way that I
17 could pin something like that down would be if I
18 was with him all day. I mean, how would I know,
19 if I was with him -- if he smoked two or three or
20 four, and then I left him, hey, I wouldn't know
21 what he did after that.

22 Q. When he was in your company --

23 A. I would say he smoked more than 1 cig.

24 Q. When he was in your company, did he,
25 to your observation, seem to be what we call a --

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1 what I would call a chain smoker? If you don't
2 feel comfortable with that description, let me
3 know.

4 A. Was he a chain smoker? Well, again, you
5 know --

6 Q. Only from the time that you could
7 observe.

8 A. Yes, that's all, yes.

9 Q. But, could you tell from those times
10 whether or not you thought he was a chain smoker?

11 A. Well, no, I really couldn't -- you don't sit
12 there and count how many cigarettes a guy has.
13 You are talking and so forth.

14 Q. Did he ever tell you or did you ever
15 find out when Walter started smoking?

16 A. No, I wouldn't know that.

17 Q. Did you ever find out why he started
18 smoking?

19 A. Why?

20 Q. Why.

21 A. No.

22 Q. Did he ever say anything about
23 advertising causing him to start smoking?

24 A. Did he ever say anything about what?

25 Q. Advertising. Was it advertising or

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1 his friends smoking or anything of that nature?

2 Did he ever pick out anything to you in a
3 discussion as to why he started smoking?

4 A. No. You asked me did he smoke because of
5 the ads that he saw or things like that?

6 Q. No. Did he ever discuss that with
7 you?

8 A. No, not really.

9 Q. Do you know if his parents smoked?
10 First of all, I should ask you, did you know
11 Walter's parents?

12 A. I met them.

13 Q. They, at some point, moved to Camden,
14 did they not?

15 A. I don't know. I only met them once. It was
16 one of those occasions where the family was
17 together.

18 Q. Thus, I assume, you don't know what
19 their attitude was toward smoking?

20 A. No.

21 Q. You didn't get into that discussion
22 about that on that one occasion?

23 A. No, not at all.

24 Q. Do you know what brands of cigarettes
25 Walter smoked during his life, when you knew him?

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1 A. No, not really. I wouldn't see what type of
2 cigarette he was smoking.

3 Q. Do you know if, at any time during
4 his life, his smoking changed in any way? In
5 other words, did he start smoking more or less, to
6 your observation, at any time?

7 A. If he did, I wasn't aware of it.

8 Q. When you were in his company, and
9 again you may not have observed it, but did you
10 notice, did he inhale the smoke?

11 A. Did he inhale?

12 Q. Yes.

13 A. I would say yes. You know, most people do
14 that smoke, you know.

15 Q. Did you ever notice, did he smoke the
16 cigarettes down to the butt or did he smoke it
17 only halfway or did you make any observations in
18 that regard?

19 A. No, I didn't.

20 Q. Did you ever know of a time when
21 Walter began to smoke filter cigarettes?

22 A. Smoke what?

23 Q. Filters.

24 A. Filters, no, I wouldn't know that, either.

25 Q. To your observation, did Walter enjoy

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1 smoking when he smoked?

2 MR. WEINER: You are asking him to
3 speculate as to what Walter's motivation may have
4 been, why he smoked?

5 MR. BLAKE: I think I asked the
6 question from his observation.

7 MR. WEINER: I think it calls for
8 speculation, but the witness can answer, if he can.

9 BY MR. BLAKE:

10 Q. Just from your observation?

11 A. Did he what?

12 Q. Did he enjoy smoking?

13 A. He never mentioned it one way or another,
14 you know.

15 Q. I think you testified to the fact
16 that you observed Walter smoke in the office?

17 A. Right.

18 Q. Now, when he played golf, when he
19 played golf with you, I should say --

20 A. Right.

21 Q. -- did he smoke out on the course?

22 A. If he did, it wasn't when he was right
23 directiv with me. He may have been in another
24 area and -- you know, but I don't know.

25 Q. So, you don't have any recollection

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of him smoking when he was playing golf with you?

2 A. No.

3 Q. From the times that you observed
4 Walter, did there seem to be times during the day
5 or specific occasions which would cause him to
6 smoke more or less?

7 A. No.

8 Q. Do you remember the two residences
9 that Walter had in Audubon? I think you spoke
10 about Washington Terrace.

11 A. Yes. That's the one that I remember, yes.

12 Q. How about Walnut Street? Do you
13 remember that?

14 A. No. But I recall, now that you mentioned
15 the name of the street, that that's what they
16 lived before there.

17 Q. Do you ever recall visiting the
18 family on Walnut Street?

19 A. No.

20 Q. But, you do have a recollection of
21 visiting them on Washington Terrace?

22 A. Definitely.

23 Q. Does Marie still own that house on
24 Washington Terrace?

25 A. She sold it recently.

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1 Q. Did she sell it?

2 A. Yes.

3 Q. Now, before you left to go into the
4 service was your sister, Marie, a smoker, if you
5 can recall?

6 A. No. I really don't recall whether Marie
7 smoked.

8 Q. Do you recall when you returned from
9 the war whether or not Marie was smoking?

10 A. You mean after the -- you mean recently, now,
11 does she smoke? Is that what you are -- how far
12 back are you --

13 Q. Let me ask you this way: What's
14 your first recollection of your sister, Marie,
15 smoking?

16 A. My first recollection of her smoking.
17 Probably would be at some of the family gatherings,
18 you know, when I first noticed that she was
19 smoking.

20 Q. Do you recall if your mother or
21 father had any reaction to that?

22 A. She didn't smoke when my father was living,
23 so he, naturally, couldn't express anything one
24 way or the other, and my stepmother, I don't know
25 whether she objected to it or not, you know.

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Q. You never heard any discussion about
2 that?

A. No, I never did hear anything about that,
4 you know.

Q. Now, when you would be in Marie and
6 Walter's company during the '50's, let's say when
7 they were on River Road, did you notice Marie
8 smoking then?

A. River Road, I was only in that place once,
10 so I wouldn't be able to say whether she did or
11 not.

Q. How about during the time -- well,
13 let's say when they first moved to Audubon, even
14 though you may not have been in the house on
15 Walnut Street, did you make any -- do you recall
16 seeing them at any family affairs when Marie might
17 have smoked?

A. Yes.

Q. My question is, do you recall seeing
20 her smoking then?

A. Yes.

Q. I'm going to ask you the same
23 question that I asked about Walter smoking. From
24 your observation, could you tell how much Marie
25 was smoking, let's say, back in the '50's when

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1 they lived in their first house in Asbury?

2 A. Would I know how much Marie was smoking? No,
3 I wouldn't know.

4 Q. Did she seem, to your observation, to
5 smoke as much as Walter?

6 A. No, she didn't.

7 Q. You've already testified to Walter
8 being a golfer.

9 A. Right.

10 Q. Did he have any other recreational
11 activities that you were aware of?

12 A. What do you mean, in the way of sports or

13 -- --

14 Q. Sports, cards, painting?

15 A. Oh, cards. He played cards occasionally,
16 you know, at -- but, at the golf course, you know,
17 like after something, you know, have a sandwich or
18 something, play a little cards. He was a -- other
19 than that, why, I don't know about his activities,
20 other than his business activities.

21 Q. Did you ever know him to be a bowler?

22 A. No.

23 Q. Was he into gardening?

24 A. No.

25 Q. Walter wasn't the gardening type?

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1 A. I don't think Walter was the gardening type,
2 as you put it, yes.

3 Q. Was he a member of any social
4 organizations, social clubs, that you know of?

5 A. Other than the golf course, you know.

6 Q. Which golf course do you recall
7 Walter being a member of?

8 A. Laurel Oaks.

9 Q. That's the one out on Crescent Road?

10 A. Yes, right.

11 Q. Any others?

12 A. He did belong to some others, but the only
13 one that I knew of was that one.

14 Q. You don't recall playing with him at
15 any other location?

16 A. No, no.

17 Q. Could you tell, did Walter read a lot?

18 A. Did he eat a lot?

19 Q. I'm sorry. Read.

20 A. Oh, read.

21 Q. Newspapers, magazines, books, things
22 of that nature?

23 A. He certainly didn't pick up something and
24 read when I was associating with him, you know,
25 with golf or sitting there having something to eat.

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1 He wouldn't read. I don't know what his
2 activities were at home. I wouldn't know that.

3 Q. Let me ask it this way: From your
4 conversations with him, did he appear to you to be
5 a well-read person?

6 A. He was a knowledgeable man, yes.

7 Q. Did he seem to be well-versed in
8 current affairs?

9 A. Yes, I would say so.

10 Q. But, I assume you could not tell from
11 your conversations with him what reading material
12 he generally relied on?

13 A. No, I wouldn't know that.

14 Q. Let me ask this, anyway. Do you have
15 any idea what magazines the family would have had
16 subscriptions to?

17 A. No, I wouldn't know that, either.

18 Q. Who were Marie and Walter's closest
19 social friends? Let's say during the '50's, to
20 start off with.

21 A. Who were their closest friends?

22 Q. Yes.

23 A. I would say mostly the family.

24 Q. That would be the Costino family?

25 A. Yes.

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1 Q. Was there any members of the Costino
2 family with whom they were closer with than other
3 members?

4 A. No, I wouldn't say -- I couldn't pick one
5 out and say he was closer to this certain one. It
6 was a general thing.

7 Q. During the time, let's say --

8 A. Of course, Marie, he was closer to her. She
9 was a Costino, you know. I mean --

10 Q. Who was closer to Marie?

11 A. Who was closer to Marie? Walt.

12 Q. I'm sorry. I thought that's what
13 you meant, but I wanted to --

14 A. Yes.

15 Q. That's a good answer.

16 MR. WEINER: Shows you he's paying
17 attention to the question.

18 MR. BLAKE: Shows he's paying more
19 attention to them than I am, which is probably a
20 good sign.

21 BY MR. BLAKE:

22 Q. When they moved to Audubon, be it
23 Walnut Street or Washington Terrace, which of the
24 Costino family lived closer to them, if you know?

25 A. Who lived closer to --

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Lawrence J. Costino

1 Q. Yes. Did John and Retta live in
2 Audubon?

3 A. Yes, they still do.

4 Q. Do you know if John and Retta saw
5 much of Walter and Marie, when they moved to
6 Audubon?

7 A. Again, I wouldn't know how close they were.

8 Q. During the time that Cortland was
9 still in existence, and I think this is before
10 they moved to Audubon, correct me if I'm wrong,
11 but I think that's the time frame, did Walter
12 spend much time at home or was he in the office
13 most of the time, during the working day?

14 A. How would I know that? You know, where he --
15 I know that they worked together at Cortland Toys,
16 but actually Marie worked there, like you already
17 knew about, I think, in the office with him.

18 Q. Sure.

19 A. I wouldn't know how much other time he would
20 spend out there.

21 Q. I don't expect that you were there on
22 a regular basis or all day to be able to answer
23 the questions that I'm posing.

24 A. Right.

25 Q. What I want to get to, though, is any

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1 information you may have collected. I know that
2 you weren't there on all these occasions when they
3 would have visitors or visit with other people,
4 but if you gained knowledge of such activity by
5 Walter and Marie, from conversations with other
6 family members, I'm also asking about that type of
7 information.

8 A. Right.

9 Q. I realize what the contact was
10 between you and Marie and Walter, and I wouldn't
11 expect you to be able to answer a lot of these
12 questions just on that one to one basis. I'm
13 talking about information you got from other
14 contacts, also, okay?

15 A. Information that I got from other contacts?

16 Q. In other words, from discussions with
17 the family. A lot of the questions that I've
18 asked you --

19 A. Oh, I see what you mean, yes. In a general
20 matter, who would say this or that or something
21 else while we were together.

22 Q. Exactly.

23 A. Oh, yes.

24 Q. Now, when they moved to Audubon,
25 other than the family members, did Marie and

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1 Walter seem to have -- not seem to have. Did they
2 have, to your knowledge, any other close friends?

3 Be it neighbors or business associates?

4 A. No, I wouldn't know that.

5 Q. When the bankruptcy occurred at
6 Cortland, do you know what Walter did
7 professionally for employment after the business
8 went bankrupt?

9 A. After the Cortland Toys?

10 Q. Right.

11 A. What he did for a living, you mean?

12 Q. Yes, sir.

13 A. Oh, yes. I think he went into the pretzel
14 business.

15 Q. Do you recall anything he did in
16 between the time that Cortland went bankrupt and
17 the pretzel business started?

18 A. No, I don't, but it seems to me that he had
19 something -- went back into the signs, something
20 about that maybe for a period of time, but I know
21 about the pretzel. The hard pretzel, like the
22 Philadelphia pretzel.

23 Q. Do you know how Walter got involved
24 in that?

25 A. In the pretzel business?

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1 Q. Yes.

2 A. He got involved in the beginning as, again,
3 what I had heard, you know. You said what did you
4 pick up from this or there.

5 Q. Sure.

6 A. That he got involved in it -- he was kind of
7 an inventive person, you know. He invented a
8 machine for those pretzels. They freeze them, you
9 know, and then he would have concessions here and
10 there whereby this machine would bake them. He'd
11 sell them frozen, and he built that up to
12 something. In fact --

13 Q. How long was he in that business?

14 A. How long?

15 Q. If you recall.

16 A. I don't know how long, you know, but he did
17 retire from that business. He sold it to A and J
18 or some other outfit.

19 Q. Do you recall ever visiting Walter at
20 the pretzel plant, pretzel factory?

21 A. Never.

22 Q. It's your understanding that he
23 retired from the pretzel business?

24 A. That's my understanding, yes.

25 Q. Were you aware of any problems that

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1 arose from the sale of that business? When Walter
2 sold it?

3 A. No.

4 Q. You never heard that from him -- I'm
5 referring to a lawsuit that was filed as a result
6 of the sale of the business. Now, you never heard
7 from Walter about that, I assume?

8 A. No. The only thing I heard from Walter was
9 that after he sold the business he was kept on as
10 an advisor -- in an advisory capacity until they
11 got situated. He said that to me one time, that
12 he was still connected with it, only to that
13 extent, you know.

14 Q. But, did he ever say anything to you
15 about a lawsuit that arose as a result of the sale?

16 A. No, he didn't.

17 Q. Did you ever hear from any other
18 source, did anybody else ever tell you of a
19 conversation they might have had with Walter about
20 that lawsuit?

21 A. No. See, I didn't even know about the
22 lawsuit.

23 Q. Do you know if Walter had any
24 individuals that he relied upon for business
25 advice?

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1 A. No, I don't.

2 Q. Did he discuss business decisions
3 with yourself or any other members of the Costino
4 family?

5 A. The only discussion that I had ever with him
6 was about the pretzel business and how he got the
7 idea of the frozen bit. Other than that, why --
8 and that he was doing well with it, you know.

9 Q. But, he never asked you for advice on
10 a business decision?

11 A. Never.

12 Q. Do you know if he ever asked any
13 members of your family for advice about a business
14 decision?

15 A. Not to my knowledge that he did.

16 Q. Do you know if he ever sought Marie's
17 advice with respect to business decisions?

18 A. Again, if he did, I wouldn't know about it,
19 you know. Being husband and wife I imagine they
20 discussed it, but he didn't directly ask me
21 anything about it.

22 Q. How would you describe Walter's
23 personality?

24 A. He was a very personable fellow. I liked
25 him. I never had any arguments with him about

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Lawrence J. Costino

1 anything. He was a nice person.

2 Q. Was he an easy fellow to talk to?

3 A. Very.

4 Q. If you could -- if I asked you to
5 rate Walter on a scale, at one end of the scale
6 being an anxious, tense type of person, the other
7 end of the scale being a calm and relaxed type of
8 person, would you be able to rate him on that
9 scale?

10 A. You are asking me about a physical thing.

11 You mean whether he's --

12 Q. I'll tell you what. For this
13 question let me confine myself just to your
14 personal observations of Walter.

15 A. Right.

16 Q. Forget anything that any of the other
17 family members or other friends may have said
18 about him. Just from your observations, when he
19 was in your company.

20 A. Right.

21 Q. How would you rate him on that scale?

22 A. Well, I've already told you, very personable,
23 likeable fellow, easy to talk to, good
24 conversationalist. I would hesitate to rate him,
25 you know. Who am I to rate somebody else? But,

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1 I'm going from my own observation and my own
2 association with him. You know, I liked the guy.

3 Q. Was he a tense person?

4 A. Tense?

5 Q. Tense.

6 A. No. He was kind of relaxed kind of a guy,
7 you know.

8 Q. Was he --

9 A. There probably would be moments when he was,
10 but I wasn't aware of them, you know.

11 Q. Was he a perfectionist, to your
12 knowledge?

13 A. From what I've seen and from what I have
14 observed and what he's done with the pretzel stuff
15 and things like that, I would say he was.

16 Q. Did you ever visit Walter when he had
17 the business in the basement after he retired?

18 A. No.

19 Q. Making quill pens?

20 A. Yes.

21 Q. Did you ever hear about that?

22 A. Yes, I did, but, no, I never did, yes.

23 Q. In those times, in the '70's, did you
24 still see Walter with the same frequency that you
25 did in the '60's?

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1 A. Again, I couldn't say when. It was mostly
2 gatherings of family and all, you know.

3 Q. Were you still playing golf with
4 Walter in those times? In those times I'm
5 referring to, let's get specific, around the time
6 of the Bicentennial when he had this quill pen
7 business. Do you recall playing golf with him
8 during those times?

9 A. No.

10 Q. Thus, is it fair to say that he, at
11 some point in the late '60's, early '70's, the
12 times that you played golf with him started to
13 fall off?

14 A. Yes. I would say that. We didn't play that
15 much, you know. He played every chance he could.
16 I just on occasions. That would be about the size
17 of it, you know.

18 Q. Now, do you recall ever playing cards
19 with Walter other than at the golf club?

20 A. No.

21 Q. It was always there?

22 A. Yes, right.

23 Q. Did he smoke when he played cards?

24 A. Yes.

25 Q. I've already asked you this basic

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Lawrence J. Costino

1 question, but let me make it more particular. Did
2 he seem to you to smoke more when he played cards?
3 A. I didn't really, you know, notice whether he
4 smoked more or not.

5 Q. Now, I asked you about family members
6 and business advice. Do you know if there were
7 any other individuals, any friends or business
8 associates, from whom Walter sought advice in
9 business?

10 A. No, I don't know.

11 Q. Did he seem to be a disciplined
12 individual, to you?

13 A. Disciplined. Now, how do you mean? You
14 know, disciplined --

15 Q. Well, did he seem to be -- did he
16 seem to you to be a goal-setter?

17 A. He was an ambitious man. He's proven that.
18 I would say that he was, if you are saying a goal-
19 setter, you know, he was aggressive, yes.

20 Q. Did he make his own decisions, as far
21 as you know?

22 A. I would say he did. That's when you said,
23 has he asked advice from this -- I think Walter
24 was the type of guy that made his own decisions.

25 Q. Did you ever know anything about any

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1 lawsuits that Walter had filed, not counting this
2 one? I asked you already about a lawsuit --

3 A. He didn't file this one, did he?

4 Q. Right.

5 I had already asked you about a
6 lawsuit filed as a result of the sale of the
7 business. I don't think you knew anything about
8 that.

9 Do you recall a lawsuit he had
10 resulting from a car accident he had?

11 A. No.

12 Q. Prior to his final illness how would
13 you describe Walter's health? His general
14 condition of health?

15 A. He seemed normal, you know, a normal kind of
16 a guy, you know, healthwise.

17 Q. Were you aware of any specific health
18 problems that he had had?

19 A. No.

20 Q. Did you ever hear about his ulcer
21 problems?

22 A. I heard that he had, you know, a problem
23 there. Other than that, I don't know.

24 Q. Now, when you and Walter were out
25 playing golf, would you have a drink afterwards or

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1 before?

2 A. Yes. After.

3 Q. What did Walter drink?

4 A. What did he drink?

5 Q. Anything specific?

6 A. Well, it wasn't only like that, you know.

7 Let's see -- no, nothing -- usually rye and water
8 or scotch and water. Something like that, you
9 know.

10 Q. Would he drink heavily on those
11 occasions?

12 A. No.

13 Q. Did you ever know of a time when
14 Walter's drinking practices changed as a result of
15 any doctor's advice?

16 A. I wasn't aware that he had any doctor's
17 advice, and I wasn't aware of his drinking
18 changing. The only time that I would drink with
19 him would be like I told you, at family gatherings
20 and playing cards or something.

21 Q. From your personal observation, you
22 could not tell of any change in Walter's
23 drinking --

24 A. No.

25 Q. Did you ever hear about any time that

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1 Walter had changed his drinking practices from
2 anybody else, be it family member or friends?

3 A. Never did, know.

4 Q. Do you have any idea what type of
5 foods Walter preferred?

6 A. I never discussed food with him, number one.
7 The only time that I would know of what foods he
8 would eat would be like I said to you, at family
9 occasions. He would usually eat what we did, you
10 know.

11 Q. Did Walter always maintain about the
12 s. e body weight, to your observation?

13 A. To my observation I would say he did, yes.

14 Q. Did he ever talk to you about going
15 on diets?

16 A. No.

17 Q. Did you ever hear from anybody else
18 of discussions he would have --

19 A. Of him dieting, no.

20 Q. I may have already asked you this.

21 Forgive me if I did. Were you ever aware, at any
22 time during the time that you knew Walter, about
23 any change in his smoking?

24 A. Any change?

25 Q. Any change.

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1 A. No.

2 Q. In the amount that he smoked?

3 A. Yes. No.

4 Q. How about Marie?

5 A. No.

6 Q. I already asked you about brands that
7 Walter smoked.

8 A. Right.

9 Q. I don't think you recalled that?

10 A. No.

11 Q. Do you have any idea what brands
12 Marie smoked?

13 A. No.

14 Q. Do you know if they would smoke the
15 same brand?

16 A. I wouldn't know that, either.

17 Q. Walter ever talk to you about
18 vitamins?

19 A. Yes. Generally, you know, he -- I know that
20 he took vitamins. He was -- he believed in
21 certain vitamins. I don't know specifically which
22 ones or why or what, but he did say something
23 about, asking me did I ever take them and he said
24 he was taking vitamins.

25 Q. In previous depositions I've always

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1 asked the question about whether or not Walter was
2 a vitamin nut, and Steve always objects to my
3 classification of being a vitamin nut, but would
4 you classify him, from your observations of him
5 and from the conversations you've had with him, of
6 one who was heavily into the use of vitamins?

7 A. What would be heavily into it? I wouldn't
8 know what that would be.

9 Q. I'll tell you what. This morning I
10 took a multivitamin and sometimes I think I'm over
11 doing it by taking multivitamins, one a day. Did
12 Walter take more vitamins than that on a daily
13 basis?

14 A. The only discussion with Walter in reference
15 to vitamins would be general. You know, like do
16 you take any vitamins? I'd say, well, not really.
17 You know. He'd say, well, I started to take some
18 or something like that. I wouldn't -- he never
19 said that he was into this or that or go into
20 detail about them. He didn't do that.

21 Q. Did he ever try and talk you into
22 taking vitamins?

23 A. No. Just the discussion was kind of general.
24 He didn't say, well, why don't you take them, no.
25 He didn't say that.

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Lawrence J. Costino

1 Q. Did he ever say anything about a
2 specific vitamin having a specific effect? You
3 know, you take a vitamin, you take this kind of a
4 vitamin for a cold, you take this kind of vitamin
5 for stomach cramps. Did he ever have that kind of
6 a discussion with you?

7 A. No. He didn't actually pick one out and say,
8 here, you ought to take C or D or E. He never did
9 say that.

10 Q. You never heard of any discussion he
11 had with anybody else about that?

12 A. No.

13 Q. Do you know if he ever got any
14 publications about vitamins?

15 A. No, I don't know that.

16 Q. Did he ever discuss anything with you
17 personally about the issue of smoking and health?

18 A. No.

19 Q. Well, let me ask you that, as far as
20 vitamins go, did he ever talk about vitamins
21 having any beneficial effect to smokers?

22 A. No.

23 Q. Was Walter a coffee drinker?

24 A. Well, he drank coffee, yes.

25 Q. Do you know if he drank a lot of

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1 coffee on a daily basis?

2 A. I wouldn't say so. When I was with him, a
3 cup or something like that.

4 Q. Do you know if he ever took any
5 medications on a regular basis? I'm talking about
6 over and above the cough medicine for a cough?

7 A. Not to my knowledge, no.

8 Q. Was Walter ever in the military, that
9 you know of?

10 A. Not that I know of.

11 Q. Do you know anything about the
12 medical history of Walter's family?

13 A. No.

14 Q. Did you -- were you aware of when
15 Walter's mother or father died?

16 A. I didn't know that they died.

17 Q. Did you and Walter ever discuss
18 smoking?

19 A. Did he discuss it?

20 Q. With you.

21 A. Never.

22 Q. Do you know if he ever discussed it
23 with anyone else, to your knowledge?

24 A. Not to my knowledge, no.

25 Q. Do you know if he and Marie would

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58

1 ever discuss smoking?

2 A. I don't know that, either.

3 Q. Marie never discussed any such
4 conversations with you?

5 A. Not with me she didn't.

6 Q. Do you know if she discussed any
7 conversations she may have had with Walter with
8 any of the other Costinos?

9 A. No, I wouldn't know that, either.

10 Q. I don't mean to beat a dead horse,
11 but just let me ask a couple specifics which may
12 jog your memory.

13 A. Right.

14 Q. Did he ever say anything to you about
15 smoking being bad for your health?

16 A. No.

17 Q. And then, conversely, did he ever say
18 anything to you about smoking being good for you?

19 A. Good for you, no.

20 Q. And these questions, please assume
21 that I'm asking about any source of information.
22 Not just your conversations with Walter, but any
23 information you have from the family and friends.

24 Did he ever say, to your knowledge,
25 that smoking causes cancer?

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Lawrence J. Costino

1 A. Did he say that to me? No.

2 Q. Do you know if he said it to anybody
3 else?

4 A. I don't know.

5 Q. Do you know if any of the Costino
6 family ever said anything like that to Walter?

7 A. Well, if they did, I wouldn't know about it,
8 yes.

9 Q. Did you ever hear of anybody use the
10 expression, cancer sticks, in Walter's company?

11 A. Cancer what?

12 Q. Cancer sticks?

13 A. Stick, no.

14 Q. I guess I should ask, have you ever
15 heard that term used with respect to cigarettes?

16 A. I never heard that term, no.

17 Q. How about coffin nails?

18 A. Oh, I've heard that term, yes.

19 Q. Did you ever hear Walter discuss that
20 term?

21 A. Did I ever hear Walter say it?

22 Q. Yes.

23 A. No, I never heard him say it.

24 Q. Did you ever tell Walter to stop
25 smoking?

689-116751

Lawrence J. Costino

1 A. No, I didn't.

2 Q. Do you know if anybody else in the
3 Costino family ever told Walter to stop?

4 A. No, I don't know whether they did or not, no.

5 Q. Do you know if any friend or anybody
6 else ever told Walter to stop smoking?

7 A. I don't know that, either.

8 Q. Did Marie ever convey to you any --
9 prior to Walter's last illness, did she ever
10 convey to you any concern about Walter smoking?

11 A. No.

12 Q. Do you know if she ever conveyed any
13 such concern to any member of the family?

14 A. Again, if she did, I didn't know about it.

15 Q. Do you know if Walter ever told any
16 of the children, any of his children or the -- or
17 his nieces and nephews not to smoke?

18 A. Did he ever tell them that?

19 Q. Yes. Did you ever hear that?

20 A. No, I didn't.

21 Q. Did you know who Walter's family
22 physician was?

23 A. I recall them referring to a doctor, but I
24 only knew him by Jules.

25 Q. Jules?

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Lawrence J. Costino

1 A. Yes. I don't even know his last name.

2 Q. Our information is, from the other
3 depositions, it was a fellow by the name of
4 Borenstein. Does that ring a bell at all?

5 A. Never heard his last name. But Jules -- in
6 fact, I think -- yes, that was the only name that
7 I knew of, yes.

8 Q. He had an office in north
9 Philadelphia?

10 A. Somewhere in Philadelphia, yes.

11 Q. Did you ever meet Jules?

12 A. Never saw him.

13 Q. Do you know if Jules ever said
14 anything to Walter about smoking?

15 A. I don't know that.

16 Q. While we are on doctors, let me ask
17 you this question: Do you know what Walter's
18 attitude was toward the medical profession?

19 A. What his attitude was?

20 Q. Yes.

21 A. No, I wouldn't know what his -- never
22 discussed doctors or anything like that.

23 Q. Did you ever know or did you ever
24 hear about any time when Walter tried to stop
25 smoking?

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Lawrence J. Costino

1 A. Did he try to stop?

2 Q. Did you ever hear of any attempt he
3 made to stop?

4 A. Yes. I recall one time that he tried to
5 stop, yes.

6 Q. What do you recall about that?

7 A. That there was a discussion about Walter
8 trying to stop smoking, you know, and I don't know
9 how successful he was in doing it, but I think he
10 did try to stop, though.

11 Q. Do you recall if that attempt
12 involved hypnotism?

13 A. I heard that, yes, that -- that it did
14 involve hypnotism.

15 Q. That's the attempt that you are
16 talking about, we are talking about the same thing,
17 his attempt to stop and the hypnotism?

18 A. What do you mean the same thing?

19 Q. You referred to some discussion that
20 you had heard about him trying to stop.

21 A. Yes.

22 Q. Now, is that the time when he
23 attempted to stop through hypnotism or are there
24 two occasions?

25 A. You are talking about hearing, you know,

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Lawrence J. Costino

1 this is only what I heard, you know. Hearsay, as
2 they call it, you know, but whether or not, you
3 know, how involved it was or anything, I'm not
4 aware of that, either. But, I know that he tried
5 to stop. Well, again, I heard that he tried to
6 stop.

7 Q. Did you hear anything about the
8 hypnotism, the actual process?

9 A. No, I didn't hear about the process or what
10 it involved. The only thing that I heard was that
11 he was trying, yes.

12 Q. Did you hear anything about -- well,
13 was there a time, to your knowledge, that he was
14 able to stop smoking?

15 As a result of that hypnotism?

16 A. Again, I don't know how successful he was.

17 Q. From your personal knowledge or your
18 observations of him, could you tell that he had
19 been successful in stopping smoking for a period
20 of time?

21 A. Do I know that he did stop? No, I don't
22 know that.

23 Q. Did you ever know Walter to use a
24 cigarette holder device?

25 A. Do I ever know him -- not with me he never

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Lawrence J. Costino

1 did.

2 Q. Did you ever hear any discussion
3 about Walter using a cigarette holder?

4 A. No.

5 Q. Did you ever hear any discussion
6 concerning Walter and the surgeon general's
7 reports which started to come out in the early
8 '60's about smoking and health?

9 A. Did I ever hear or discuss it with him, do
10 you mean? No.

11 Q. Did you ever discuss it with him?

12 A. Never.

13 Q. Did you ever hear anybody else ever
14 discuss it with him?

15 A. No, I didn't.

16 Q. When was the first time you knew
17 that -- did you know that Walter was sick in
18 August of 1982?

19 A. Yes.

20 Q. My information is that he died in
21 November of '82.

22 A. Right.

23 Q. When did you first hear about
24 Walter's illness?

25 A. Through the family, you know.

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Lawrence J. Costino

1 Q. What did you hear about it?

2 A. That he was quite ill.

3 Q. Did you hear what disease he had come
4 down with?

5 A. No, I didn't, at that time.

6 Q. Did you at some point find out what
7 disease he was diagnosed as having?

8 A. I understand the diagnosis having lung
9 cancer, yes.

10 Q. Did you see Walter after he was
11 diagnosed with lung cancer?

12 A. No.

13 Q. Did you know about him being
14 hospitalized at Temple a couple months before he
15 died?

16 A. I had heard that he had been in the hospital,
17 yes.

18 Q. And do you know who -- did you hear
19 that he got out of the hospital and came home
20 before he died?

21 A. Yes, I knew that he was home. I knew that
22 he died at home, right.

23 Q. John's son, your half brother, John,
24 is a doctor?

25 A. Right.

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Lawrence J. Costino

1 Q. You know Dr. Jerry?

2 A. Jerry, yes.

3 Q. Do you know if Jerry ever treated
4 Walter in his last illness?

5 A. Not to my knowledge.

6 Q. Do you know if Jerry ever treated
7 Walter before his last illness?

8 A. No, I wouldn't know that, either.

9 Q. Do you know if Jules was treating
10 Walter during his last illness?

11 A. I don't know that. The only reason I know
12 Jules was the family doctor. When you asked me,
13 did I know the family doctor, I said I just knew
14 him by the name Jules, but I never even met him.

15 Q. Did you ever hear any discussion
16 about Jerry signing the death certificate for
17 Walter?

18 A. Yes, I heard that that was -- you know, that
19 he signed the death certificate.

20 Q. Did you hear any reason why it was
21 Jerry that signed the --

22 A. No, I didn't hear that.

23 Q. Are you aware of the fact that
24 Walter's body was cremated?

25 A. I'm aware of that.

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Lawrence J. Costino

1 Q. Did Walter ever discuss that with you?

2 A. Never.

3 Q. Did you ever hear of any discussion
4 he had with anybody else about being cremated?

5 A. I think Marie had said something about his
6 wishes or something, you know, about being
7 cremated. Seems to me I recall on an occasion
8 when she said something about that.

9 Q. This would have been before his death?

10 A. Right.

11 Q. Do you recall when that might have
12 been? That discussion?

13 A. No. It was kind of a -- you know, just
14 spontaneously, like, you know, discussing this or
15 that. Funerals and things. She may have said
16 something about Walter always said he'd like to be
17 cremated.

18 Q. Was this during the time of his last
19 illness or was this before that?

20 A. Before that.

21 Q. Did you hear from any of the family
22 members or friends about Walter's condition in the
23 last two months of his life?

24 A. Like I said before, I knew he was quite ill,
25 you know.

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Lawrence J. Costino

1 Q. Do you know if he was able to take
2 visitors during those last two months of his life?

3 A. I don't know that.

4 Q. Did you know a fellow by the name of
5 Jim Sarli?

6 A. Jim what?

7 Q. Sarli, S-a-r-l-i.

8 A. No.

9 Q. I think he's been described as owning
10 a diner on -- at Haddon and Kaighns Avenue. Do
11 you ever remember a diner being at that location?

12 A. Haddon and Kaighns?

13 Q. Yes.

14 A. No, I don't recall a diner being there.

15 Q. You never heard the name Jim Sarli,
16 though?

17 A. No.

18 Q. You never heard Walter discuss that
19 name?

20 A. No.

21 Q. How about a fellow by the name of
22 Steuben, did you ever hear Walter discuss an old
23 friend of his by the name of Steuben?

24 A. No, I didn't.

25 Q. Do you know who Mildred Ancerson was?

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Lawrence J. Costino

1 A. Mildred Anderson, no.

2 Q. I believe that was Walter's sister.

3 Did you ever hear any discussion about Walter's
4 sister?

5 A. Sister, no.

6 Q. Is Marie still smoking, do you know?

7 A. Is she?

8 Q. Yes.

9 A. Yes.

10 Q. When was the last time you saw Marie?

11 A. Two days ago.

12 Q. And what did you and Marie discuss at
13 that point?

14 A. It was at a funeral.

15 Q. That was for Catherine Siderio?

16 A. Right.

17 Q. Mr. Costino, what was the first time
18 you heard any discussion or heard anything about
19 this lawsuit?

20 A. I read it in the paper.

21 Q. So, Marie didn't discuss it with you
22 before it was filed?

23 A. No.

24 Q. Do you know if Marie ever discussed
25 it with anybody else in the family? That is,

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1 before it was filed?

2 A. Not to my knowledge. I wouldn't know that,
3 either, if she did, you know. I'm sure you've had
4 that deposition from the others, you know, the
5 answer that they gave you, whether it was yes or
6 no.

7 Q. But, they never discussed that with
8 you?

9 A. With me, no.

10 Q. Have you had any discussion about the
11 suit with Marie, let's say, since it was filed?

12 A. No.

13 Q. So, she hasn't --

14 A. No, she didn't -- no, she didn't.

15 Q. I'm sorry. I didn't mean to cut you
16 off.

17 A. No. That was all. No.

18 Q. Did anybody ever tell you, Marie or
19 anybody else, what Marie sought to gain from this
20 lawsuit?

21 A. No.

22 Q. I just want to touch a couple things
23 on Walter's medical history. You didn't know
24 anything about his ulcer problems?

25 A. No. I heard that he had an ulcer or

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1 something, you know, but a lot of people have
2 ulcers.

3 Q. He never complained to you about it
4 or told you any details?

5 A. No, he really didn't, no.

6 Q. Did you ever know anything about a
7 hernia operation that he had?

8 A. No.

9 Q. How about an operation on his skull?

10 A. I heard about that, yes.

11 Q. Do you know what caused his skull
12 problems?

13 A. What caused it?

14 Q. Do you recall hearing anything about
15 an automobile accident that preceded that skull
16 operation?

17 A. No.

18 MR. BLAKE: Steve, why don't you give
19 us our standard ten minutes to discuss things and
20 we'll get you out of here in a moment, Mr. Costino.

21 (Recess is called at 11:05 a.m.)

22 (Resumed at 11:12 a.m.)

23 BY MR. BLAKE:

24 Q. Mr. Costino, you had discussions or a
25 discussion, I assume, with Mr. Weiner before the

689-416763

Lawrence J. Costino

1 deposition.

2 Did you discuss the matter before
3 this morning with Mr. Weiner or anybody from his
4 firm?

5 A. Before --

6 Q. Before today.

7 A. No, no.

8 Q. Were you shown any documents in that
9 discussion that you had with Mr. Weiner?

10 A. Any documents?

11 Q. Documents.

12 A. None.

13 Q. Copies of depositions or anything
14 written down or anything like that?

15 A. No.

16 Q. What did you and he discuss before
17 the deposition?

18 A. Just generally about -- said something about,
19 you know, what this is going to involve, what a
20 deposition -- you'll be under oath. He says, tell
21 the truth, because that's -- that's about the size
22 of it.

23 Q. Did he go over any specific questions
24 that you might be asked in the deposition?

25 A. He just said they are going to ask you a lot

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1 of questions pertaining to this, you know, but he
2 didn't go into detail with them. He said, you'll
3 know them when they ask you. Answer them to the
4 best of your knowledge. That's it.

5 Q. I'll be very brief about this issue,
6 because I don't want to invade your privacy with
7 respect to the funeral.

8 A. Go ahead. Feel free.

9 Q. But, were there any discussions at
10 the funeral about your upcoming deposition? That
11 is, the funeral of Catherine Siderio.

12 A. Yes, but the only discussion was that I --
13 Marie was there, and I said to her -- she didn't
14 bring it up. I did. I said, I received a letter
15 in reference to your case, that I'm to meet with
16 them. That was it. That was all.

17 Q. Marie -- I'm sorry.

18 A. She didn't say any more about it. No, that
19 was it.

20 Q. Okay.

21 A. Because I didn't know about this until I
22 received a letter from Mr. Weiner here, you know,
23 that I was to meet this morning.

24 Q. I want to refer back to two or three
25 things that we discussed in the first part of the

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Lawrence J. Costino

1 deposition.

2 A. Right.

3 Q. The first one is, you had discussed a
4 time when there was some conversation with some
5 member of the -- I assume it was some of the
6 Costino family, about an attempt Walter made to
7 stop smoking. I didn't really ask you what your
8 best recollection is of when that discussion
9 occurred.

10 A. When he attempted to try to quit, you mean,
11 smoking?

12 Q. Yes, sir.

13 A. Oh, boy. It was in a general thing, you
14 know. We were discussing different forms of
15 habits and so forth, and somebody happened to
16 mention, did you know that Walter was going to --
17 I says, no, I didn't, you know.

18 Q. Was this a couple years before he
19 died or was this ten or fifteen years before he
20 died? I don't mean to give you just those two
21 choices, but if you can give me an approximation
22 of when --

23 A. Again, it was one of the gatherings, you
24 know. Somebody got married or something, and
25 trying to think of who it was. One of the boys

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Lawrence J. Costino

1 must have said to me, Walter -- in fact, Walter
2 wasn't even there. But, that's all. It was just
3 in general, you know.

4 Q. I don't mean to press you on it,
5 but --

6 A. Go ahead.

7 Q. Can you give me any time frame of
8 when that conversation might have taken place?

9 A. It was such a vague thing and such a matter
10 of fact thing that I don't know that I could give
11 you the date or anything like that, you know, but
12 it was just in the course of a conversation like
13 you would say, did you hear about such and such,
14 and -- but, I did hear that when you brought up
15 did I hear about the hypnotism. That was -- I
16 said, well, you know, has it worked or something
17 like that. They didn't go any further with it.

18 Q. That was in the same conversation?

19 A. Yes.

20 Q. Could that have taken place in the
21 '50's, this conversation? Could it have been that
22 long ago?

23 A. Man, you are going back. Oh, '50's. It was
24 after that, yes. Oh, yes. I think it was after
25 that. Again, I don't recall what it was. You are
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1 going back thirty-five years. It was after -- I'm
2 sure it was after that, yes.

3 Q. Did you ever notice Walter having any
4 nervous habit, a twitch?

5 A. A twitch?

6 Q. A twitch.

7 A. No, I didn't notice anything, you know, like
8 unusual, you know, something like that you would
9 notice, you know.

10 Q. Sure. I'm talking about an obvious
11 physical sign that you could see.

12 A. Yes, right.

13 Q. You don't recall anything like that?

14 A. No.

15 Q. Did you ever hear -- let me ask it in
16 two ways. Did you ever participate in any
17 discussion with the Costino family about the
18 funeral arrangements or specifically about an
19 autopsy to be performed on Walter?

20 A. Was there any discussion about that?

21 Q. Yes. Let me ask it that way.

22 Whether you participated or whether you heard of
23 any such discussion taking place between anyone?

24 A. No.

25 Q. You had brought up, I think -- I had

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1 asked you about any discussion that Marie may have
2 had about cremation, and you did tell me that you
3 recall that conversation?

4 A. Yes.

5 Q. Again, I'll ask you the same question
6 that I asked you about that previous conversation.
7 Do you have any idea, can you give me any time
8 frame, as to when that discussion might have taken
9 place?

10 A. About the cremation?

11 Q. Right.

12 A. It was sometime before his death, certainly,
13 but, you know, like again, you know, when you are
14 discussing something, how, when and where you are
15 going to be buried or something and she casually
16 brought up that Walter had expressed the desire to
17 be cremated.

18 Q. Did Walter participate in that
19 conversation?

20 A. No.

21 Q. Could that have been during Walter's
22 last illness, that conversation?

23 A. Previous to his illness.

24 Q. This would be previous to the time
25 that he went into the hospital and was diagnosed?

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1 A. Right, yes.

2 MR. BLAKE: I think that's all I have.

3 MR. WILENSKY: No questions.

4 MS. THOMPSON: No questions.

5 MR. WEINER: No questions.

6 MR. BLAKE: Thank you, Mr. Costino,
7 for your time.

8 THE WITNESS: You are welcome, Dennis.

9 MR. BLAKE: If you have had any loss
10 of income or any expenses, you let me know and I
11 will take it --

12 THE WITNESS: Well, I was
13 anticipating making a few thousand dollars in the
14 market.

15 (Deposition is concluded at 11:20 a.m.)

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C E R T I F I C A T E

2

3 I, Sean M. Fallon, a Certified Shorthand
4 Reporter and Notary Public of the State of New
5 Jersey, do hereby certify that prior to the
6 commencement of the examination, the witness
7 and/or witnesses were sworn by me to testify to
8 the truth, the whole truth and nothing but the
9 truth.

10

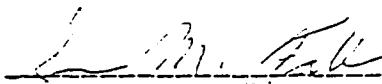
I do further certify that the foregoing is a
11 true and accurate computer-aided transcript of the
12 testimony as taken steno- graphically by and
13 before me at the time, place and on the date
14 hereinbefore set forth.

15

I do further certify that I am neither of
16 counsel nor attorney for any party in this action
17 and that I am not interested in the event nor
18 outcome of this litigation.

19

20



21

License No. XI00840

22

Notary Public

23

My commission expires March 16, 1988

24

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Dated: 3/16/1986

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